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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, DUSTIN

ART UNIT PAPER NUMBER

2154

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/764,270 | <b>Applicant(s)</b><br>MORITOMO, ICHIRO |  |
|                              | <b>Examiner</b><br>Dustin Nguyen     | <b>Art Unit</b><br>2154                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-116 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-116 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Claims 1 – 116 are presented for examination.

### ***Response to Arguments***

2. Applicant's arguments filed 09/12/2005 have been fully considered but they are not persuasive.
3. As per remarks, Applicants' argued that (1) Hunter reference clearly does not disclose or even suggest utilizing such predetermined criteria that includes a capability to deal with an interrupted or non-steady data flow.
4. As to point (1), Hunter discloses the capability to detect bit loss and patch the corrupted bits or packets in original download [ paragraphs 0213-0216 ].

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

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international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 7-16, 19, 20, 23-32, 35, 39, 41-46, 49, 53, 55-61, 65-74, 77, 78, 81-90, 93, 97, 99-104, 107, 111, 113-116 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al. [ US Patent No 20020056118 ].

7. As per claim 1, Hunter discloses the invention substantially as claimed including a method of transmitting information to a computer [ 610, Figure 23; and paragraph 0012, lines 11-19 ] having a removable medium [ 630, Figure 23 ], comprising the steps of:

receiving a request from the computer to download information over a network [ Figure 11; and paragraph 0139 ];

determining whether a device of the computer having structure to write to the removable medium meets predetermined criteria that includes a capability to deal with an interrupted or non-steady data flow [ i.e. capability to detect bit loss ] [ paragraph 0213-0216 ] and is therefore an appropriate device for writing to the removable medium [ i.e. determine status of disc position, etc, blank disk, empty disk ] [ Figure 6; and paragraph 0074 ].

transmitting information to the computer in order for the device of the computer to write the information to the removable medium [ Figure 4; and paragraph 0012, lines 11-19 ]; wherein the transmitting step comprises

transmitting the information to the computer in order for the device of the computer to write the information to the recordable medium without writing any of the information to an intermediate storage device, when the determining step determines that the device is an appropriate device for writing to the removable medium [ i.e. write to

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removable media ] [ 86, Figure 4; 630, Figure 23; paragraphs 0064, 0065, 0154, and 0157 ].

8. As per claim 2, Hunter discloses the step of:

transmitting the information to the computer in order for the intermediate storage device to store the information followed by reading the information from the intermediate storage device and writing the information to the removable medium using the device, when the determining step determines that the device is not an appropriate device for writing to the removable medium [ i.e. temporary store in hard drive ] [ Figure 17, and paragraph 0169, lines 23-27 ].

9. As per claim 3, Hunter discloses determining whether the device is an appropriate device by examining state data of the device [ i.e. status of slot ] [ Figure 6 ].

10. As per claim 7, Hunter discloses the step of determining if information is written to the removable medium; and the step of transmitting is performed when it has been determined that no information is written to the removable medium [ i.e. blank disc ] [ Figure 6; and paragraphs 0012, 0074 ].

11. As per claim 8, Hunter discloses prohibiting a writing of information to the removable medium, when it has been determined that the removable medium contains previously written information [ i.e. currently stored movie ] [ Figure 6; a paragraph 0074 ].

12. As per claim 9, Hunter discloses notifying a user that information is written to the removable medium [ i.e. alert ] [ paragraph 0139, lines 31-33 ].

13. As per claim 10, Hunter discloses writing the information to a memory in the computer which is other than the removable medium, when it has been determined that the removable medium contains previously written information [ i.e. temporary storage ] [ paragraph 0169, lines 22-27 ].

14. As per claim 11, Hunter discloses transmitting the information to the computer in order for the device of the computer which is an optical disc drive to write the information to the removable medium which is an optical disc [ paragraph 0121 ].

15. As per claim 12, Hunter discloses transmitting the information to the computer in order for the device of the computer which is an optical disc drive to write the information to the removable medium which is one of a CD-R and a CD-RW [ paragraph 0124 ].

16. As per claim 13, Hunter discloses transmitting the information to the computer in order for the intermediate storage device which is a hard disk drive to store the information [ paragraph 0128 ].

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17. As per claims 14-16, they are rejected for similar reasons as stated above in claims 1-3.

18. As per claim 19, Hunter discloses determining step is performed by the computer which includes the device [ Figures 2A and 2B ].

19. As per claim 20, Hunter discloses determining step is performed by a remote computer which transmits the information to the computer which includes the device [ Figure 11 ].

20. As per claims 23-29, they are rejected for similar reasons as stated above in claims 7-13.

21. As per claim 30, it is rejected for similar reasons as stated above in claim 1. Furthermore, Hunter discloses the information including first importance information [ i.e. key codes ] [ Figure 8; and paragraphs 0080-0082 ], and second importance information [ i.e. movie ] [ Abstract ] having an important which is lower than the first important information [ i.e. playback movie when all codes are present ] [ paragraph 0083 ]; and writing the first important information to a hard disk drive of the computer [ paragraph 0128 ].

22. As per claim 31, Hunter discloses requesting, by the computer, that the information be transmitted thereto [ Figure 11 ].

23. As per claim 32, Hunter discloses transmitting, to a remote computer over a network, state data of the device which writes to the storage medium [ paragraph 0089, lines 8-16; and paragraph 0144 ].

24. As per claim 35, it is rejected for similar reasons as stated above in claim 1.

25. As per claim 39, it is rejected for similar reasons as stated above in claim 7.

26. As per claim 41, it is rejected for similar reasons as stated above in claims 9 and 10.

27. As per claim 42, Hunter discloses providing, by a user, an instruction to perform said step of writing the second importance information, when there exists an indication that information is recorded on the storage medium [ i.e. overwrite ] [ paragraph 0141, lines 13-20 ].

28. As per claim 43, it is rejected for similar reasons as stated above in claim 41. Furthermore, Hunter discloses writing the first and second importance information to the hard disk drive, when there is an indication that information is recorded on the storage medium [ paragraph 0144, lines 21-25 ].

29. As per claim 44, it is rejected for similar reasons as stated above in claim 12.



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30. As per claims 45 and 46, they are rejected for similar reasons as stated above in claims 30 and 32.

31. As per claim 49, it is rejected for similar reasons as stated above in claim 35.

32. As per claim 53, it is rejected for similar reason as stated above in claim 39.

33. As per claim 55-58, they are rejected for similar reason as stated above in claims 41-44.

34. As per claims 59-61, they are rejected for similar reasons as stated above in claims 1-3.

35. As per claims 65-71, they are rejected for similar reasons as stated above in claims 7-13.

36. As per claims 72-74, they are rejected for similar reasons as stated above in claims 1-3.

37. As per claims 77 and 78, they are rejected for similar reasons as stated above in claims 19 and 20.

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38. As per claims 81-87, they are rejected for similar reasons as stated above in claims 7-13.

39. As per claims 88-90, they are rejected for similar reasons as stated above in claims 30-32.

40. As per claim 93, it is rejected for similar reasons as stated above in claim 35.

41. As per claim 97, it is rejected for similar reasons as stated above in claim 39.

42. As per claims 99-102, they are rejected for similar reasons as stated above in claims 41-44.

43. As per claim 103, it is rejected for similar reasons as stated above in claim 30.

44. As per claim 104, it is rejected for similar reasons as stated above in claim 32.

45. As per claim 107, it is rejected for similar reasons as stated above in claim 49.

46. As per claim 111, it is rejected for similar reasons as stated above in claim 53.

47. As per claims 113-116, they are rejected for similar reasons as stated above in claims 55-58.

*Claim Rejections - 35 USC § 103*

48. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

49. Claims 4-6, 17, 18, 21, 22, 33, 34, 37, 38, 40, 47, 48, 51, 52, 54, 62-64, 75, 76, 79, 80, 91, 92, 95, 96, 98, 105, 106, 109, 110 and 112, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. [ US Patent No 20020056118 ], in view of Srinivasan [ US Patent No 6,460,076 ].

50. As per claim 4, Hunter does not specifically disclose at least a model number of the device. Srinivasan discloses some information that includes the model and make of the recording device [ col 5, lines 52-54 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hunter and Srinivasan's teaching of model and make of the device would allow to determine compatibility of the device so that the proper driver can be provided.

51. As per claim 5, Srinivasan discloses at least a manufacturer of the device [ i.e make ] [ col 5, lines 52-54 ].

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52. As per claim 6, Srinivasan discloses prohibiting the transmitting of the information to the computer, when the determining step determines the device of the computer does not meet the predefined criteria [ i.e. reject request if device is not compatible ] [ col 5 ,lines 54-56 ].

53. As per claims 17 and 18, they are rejected for similar reasons as stated above in claims 4 and 5.

54. As per claims 21 and 22, they are rejected for similar reasons as stated above in claim 6.

55. As per claims 33 and 34, they are rejected for similar reasons as stated above in claims 4 and 5.

56. As per claim 37, it is rejected for similar reasons as stated above in claims 6, 33 and 34.

57. As per claim 38, it is rejected for similar reasons as stated above in claims 2, 13, 33 and 34.

58. As per claim 40, it is rejected for similar reasons as stated above in claim 6.

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59. As per claims 47 and 48, they are rejected for similar reasons as stated above in claims 4 and 5.

60. As per claims 51 and 52, they are rejected for similar reasons as stated above in claims 37 and 38.

61. As per claim 54, it is rejected for similar reasons as stated above in claim 40.

62. As per claims 62-64, they are rejected for similar reasons as stated above in claims 4-6.

63. As per claims 75 and 76, they are rejected for similar reasons as stated above in claims 4 and 5.

64. As per claims 79 and 80, they are rejected for similar reason as stated above in claim 21.

65. As per claims 91 and 92, they are rejected for similar reasons as stated above in claims 4 and 5.

66. As per claims 95 and 96, they are rejected for similar reasons as stated above in claims 37 and 38.

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67. As per claim 98, it is rejected for similar reasons as stated above in claim 6.

68. As per claims 105 and 106, they are rejected for similar reasons as stated above in claims 47 and 48.

69. As per claims 109 and 110, they are rejected for similar reasons as stated above in claims 51 and 52.

70. As per claim 112, it is rejected for similar reasons as stated above in claim 54.

71. Claims 36, 50, 94, 108, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. [ US Patent No 20020056118 ], in view of Srinivasan [ US Patent No 6,460,076 ], and further in view of Allen [ US Patent No 5,794, 217 ].

72. As per claim 36, Hunter and Srinivasan do not specifically disclose the step of writing the first importance information writes computer instruction; and the step of writing the second importance information writes computer data. Allen discloses the step of writing the first importance information writes computer instruction; and the step of writing the second importance information writes computer data [ col 10, lines 19-38 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hunter, Srinivasan and Allen because Allen's teaching of

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instruction and data would allow to remotely control and manage the writing or recording of information in a more efficient manner.

73. As per claim 50, it is rejected for similar reasons as stated above in claim 36.

74. As per claim 94, it is rejected for similar reasons as stated above in claim 36.

75. As per claim 108, it is rejected for similar reasons as stated above in claim 50.

76. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on Monday – Friday (8:00 – 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3968.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

 JOHN FOLLANSBEE  
SUPERVISOR PATENT EXAMINER  
TECHNOLOGY CENTER 2100